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7 **UNITED STATES DISTRICT COURT**  
8 **WESTERN DISTRICT OF WASHINGTON**  
9 **AT SEATTLE**

10 NORTHWEST SHEET METAL  
11 WORKERS ORGANIZATIONAL  
12 TRUST, et al.,

13 Plaintiffs,

14 v.

15 NORTH PARK HEATING COMPANY,  
16 INC.,

17 Defendant.

NO. C12-663-JPD

ORDER GRANTING PLAINTIFFS'  
MOTION FOR SUMMARY  
JUDGMENT

18 **I. INTRODUCTION AND SUMMARY CONCLUSION**

19 This matter comes before the Court on plaintiffs' unopposed motion for summary  
20 judgment. Dkt. 15. Plaintiffs ask the Court to conclude that no genuine issue of material fact  
21 exists and award them outstanding employee benefit contributions, liquidated damages, pre-  
22 and post-judgment interest, attorney's fees, and costs. For the reasons discussed below, the  
23 Court ORDERS that plaintiff's motion, Dkt. 15, is GRANTED.

24 **II. BACKGROUND**

25 Plaintiffs are various labor-management pension trust funds created pursuant to section  
26 302(c) of ERISA. *See* Dkt. 16 at ¶ 2 (Hutzenbiler Decl.).<sup>1</sup> Plaintiffs filed the instant suit

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<sup>1</sup> Plaintiff Northwest Sheet Metal Workers Welfare Fund (the "Welfare Trust") acts as the collection agent for contributions due to the Northwest Sheet Metal Workers Pension Fund, Supplemental Pension Trust,

1 against defendant North Park Heating Company, Inc., seeking to collect delinquent trust fund  
2 contributions, pre- and post-judgment interest, liquidated damages, reasonable attorney's fees,  
3 and costs. Dkt. 1. The parties have consented to this matter proceeding before the undersigned  
4 United States Magistrate Judge pursuant to 28 U.S.C. § 636(c). Dkt. 12 at 3.

5 In support of their motion for summary judgment, plaintiffs present the Court with the  
6 remittance documents they received from defendant on June 20, 2012, showing the amount of  
7 hours the defendant owes contributions for during the months of September 2010 through  
8 April 2012. Dkt. 16, Ex. J. Based upon these remittance reports, defendants have provided  
9 "Excel spread sheets for the months of September 2010 through April 2012 respectively,  
10 showing the amount owed by Defendant to each fund listed based off of the answers provided  
11 by Defendant . . . These sheets show the amounts due in contributions to each of the funds or in  
12 wages withheld, and the liquidated damages calculations and interest for each of those  
13 months." Dkt. 16 at ¶ 20 (Hutzenbiler Decl.); Dkt. 16, Exs. K-CC. Specifically, the Excel  
14 spreadsheets show that defendant owed plaintiffs a total of \$327,351.86 in outstanding  
15 contributions, \$62,150.89 in liquidated damages, and \$47,171.98 in interest. Dkt. 16 at ¶ 20  
16 (Hutzenbiler Decl.).

17 Plaintiffs also provide the Court with a copy of the collective bargaining agreement by  
18 which defendant agreed to be bound by several trust agreements with plaintiffs, and each of the  
19 plaintiff trusts' agreements with defendant. *See id.*, Exs. A-I. Pursuant to these trust  
20 agreements, plaintiffs request (1) liquidated damages at 20% of all delinquent contributions to  
21 the Welfare, Pension, Supplemental Pension, Training and Cooperation Trusts, (2) liquidated  
22 damages at 15% of the delinquent contributions to the Organizational Trust and Industry Fund,  
23 (3) liquidated damages at 15% of all wages withheld from the Local Union, (4) pre-judgment  
24 interest at 12% per annum for all delinquent contributions/withheld wages to all the funds,

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26 Training Trust, Organizational Trust, Labor Management Cooperation Trust, and Industry Fund. In addition, the Welfare Trust acts as the collection agent for wages withheld from employees' after tax wages to be submitted to the Sheet Metal Workers, Local 66. *See* Dkt. 16 at ¶ 2 (Hutzenbiler Decl.).

1 (5) post-judgment interest at the statutory rate, and (6) reasonable attorneys fees and costs. *See*  
2 *id.*, Exs. D-I.

### 3 III. DISCUSSION

4 The Court may enter judgment as a matter of law only if it is satisfied that there is no  
5 genuine issue of material fact to preclude judgment as a matter of law. Fed. R. Civ. P. 56(c).  
6 As the moving party, plaintiffs bear the initial burden of informing the Court of the basis for  
7 summary judgment. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). They must prove  
8 each and every element of its claims or defenses such that no reasonable jury could find  
9 otherwise. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). In doing so, they are  
10 entitled to rely on nothing more than the pleading themselves. *Celotex*, 477 U.S. at 322–24.  
11 Only if plaintiffs make that initial showing does the burden shift to defendant to show by  
12 affidavits, depositions, answers to interrogatories, admissions, or other evidence that summary  
13 judgment is not warranted because a genuine issue of material fact exists. *Id.* at 324.

14 Notably, only those factual disputes whose resolution would affect the outcome of the  
15 suit are material. *Anderson*, 477 U.S. at 248. A genuine issue exists only if the evidence is  
16 such that a reasonable trier of fact could resolve the dispute in favor of the nonmoving party.  
17 *Id.* at 249. “If the evidence is merely colorable . . . or is not significantly probative . . .  
18 summary judgment may be granted.” *Id.* at 249–50. In reviewing the evidence “the court must  
19 draw all reasonable inferences in favor of the nonmoving party, and it may not make credibility  
20 determinations or weigh the evidence.” *Reeves v. Sanderson Plumbing Prods. Inc.*, 530 U.S.  
21 133, 150 (2000).

22 Turning to the facts of the present case, the Court finds that there is no genuine issue of  
23 material fact. Defendant has not opposed plaintiffs’ motion. Accordingly, pursuant to Local  
24 Civil Rule 7(b)(2), the Court presumes that defendant concedes that the plaintiffs’ motion has  
25 merit. Moreover, defendant has not introduced any evidence in this case. Thus, as a practical  
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1 matter, the Court is left only with plaintiffs' evidence, which clearly demonstrates entitlement  
2 to relief.

3 Both the provided trust agreements with defendant and defendant's own remittance  
4 reports demonstrate that defendant was obligated to pay plaintiffs contributions and dues. *See*  
5 Dkt. 16, Exs. A-J. Moreover, plaintiffs have provided spreadsheets, based on defendant's own  
6 remittance reports, demonstrating exactly how much money was owed under that obligation:  
7 \$327,351.86 in trust contributions and withheld wages. *See id.*, Exs. J-CC. Accordingly, the  
8 Court awards plaintiffs the requested contributions and withheld wages. In addition, the trust  
9 agreements in this case provide that plaintiffs are entitled to pre-judgment interest in an amount  
10 of 12% per annum, either a 15% or 20% liquidated damages charge on all delinquent  
11 contributions, as well as reasonable attorneys fees and costs. Dkt. 16, Exs. D-I. ERISA  
12 requires this Court to award plaintiffs these amounts. *See* 29 U.S.C.A. § 1132(g)(2).

13 Finally, the Court notes that plaintiffs are properly seeking post-judgment interest at the  
14 statutory rate. *See* 28 U.S.C. § 1961(a) (post-judgment interest "shall be allowed on any  
15 money judgment in a civil case recovered in a district court."). Specifically, post-judgment  
16 interest is calculated "at a rate equal to the weekly average 1-year constant maturity Treasury  
17 yield, as published by the Board of Governors of the Federal Reserve System, for the calendar  
18 week preceding the date of judgment." *Id.* In his declaration, dated November 2, 2012, Mr.  
19 Hutzenbiler represented that "as of today" the current post-judgment interest rate was .19%.  
20 Dkt. 16 at ¶ 21 (Hutzenbiler Decl.). However, for the calendar week ending on November 30,  
21 2012, the applicable post-judgment interest rate was .18%. Thus, plaintiffs shall also be  
22 awarded post-judgment interest at the statutory rate of .18% for all dates following this Court's  
23 judgment, until the date the delinquent contributions and withheld wages are paid in full.  
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IV. CONCLUSION

Accordingly, the Court, after careful consideration of plaintiffs' motion for summary judgment, Dkt. 15, all supporting documents, and the balance of the record, does hereby find and ORDER:

(1) Plaintiffs' motion for summary judgment, Dkt. 15, is GRANTED.

(2) For the employment periods of September 2010 through April 2012, judgment is awarded in favor of the plaintiffs and against defendant North Park Heating Company, Inc., in the following amounts:

(A) \$327,351.86 for outstanding contributions and withheld wages;

(B) \$62,150.89 for liquidated damages;

(C) \$47,171.98 for pre-judgment interest through November 1, 2012

(interest will continue to accrue at the agreed upon rate of 12% until the date of judgment, and thereafter at the statutory interest rate of .18% from the week preceding judgment as set forth in 28 U.S.C. § 1961 until all contributions have been paid in full);

(D) \$3,940.00 in attorney's fees; and

(E) \$480.00 in costs.

(3) The Clerk of the Court is directed to send copies of this Order to all parties.

DATED this 10th day of December, 2012.

  
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JAMES P. DONOHUE  
United States Magistrate Judge